

2Before the

Federal Communications Commission

In the Matter of)
)
 Advanced Television Systems)
 and)
 Their Impact Upon the Existing)
 Television Broadcast Service)

MM Docket No. 87-268

RECEIVED

APR 20 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

PETITION FOR RECONSIDERATION

Beaumont 21 L.L.C. ("Beaumont 21"), by its counsel, hereby seeks reconsideration of the Commission's *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, FCC 98-24 (released February 23, 1998) ("MO&O"), in the above-captioned proceeding. In support of this petition, the following is stated:

I. Background.

On July 24, 1996, Beaumont 21 filed an application for a new television station to operate on Channel 21 at Beaumont, Texas. Beaumont 21's application included a request for waiver of the Commission's order in *Advanced Television Systems and Their Impact on the Existing Television Broadcast Service*, RM-5811, 1987 FCC LEXIS 3477 (July 17, 1987), 52 Fed.Reg. 28346 (1987) ("Freeze Order").

In its *Sixth Report and Order* in this proceeding, 12 FCC Rcd 14588 (1997), the Commission noted that, in its *Sixth Further Notice of Proposed Rulemaking*, it stated that it would not accept additional applications for new NTSC stations that were filed after September 20, 1996.¹ The

¹ See *Sixth Further Notice of Proposed Rulemaking*, 11 FCC Rcd 10968, 10992 ¶160

Commission also noted, however, that it would continue to process applications already on file and those that were filed on or before September 20, 1996, because the Commission did not believe that these applications would have a "significant negative impact" on the development of the DTV Table of Allotments. *Sixth Report and Order*, 12 FCC Rcd at 14635, ¶104. In addition, the Commission stated that when applications for new stations were accepted for filing, it would continue its practice of issuing cut-off lists announcing the opportunity to file competing, mutually-exclusive applications.²

II. The MO&O Failed to Protect Beaumont 21's Pending NTSC Application for Channel 21 at Beaumont.

In its recent *MO&O*, the Commission repeatedly confirmed that it fully intended to protect pending NTSC applications filed by the September 20, 1996, deadline. *See, e.g., MO&O* at ¶¶571, 575, 608, 627. Nevertheless, the DTV Table set forth in the *MO&O* fails to protect Beaumont 21's pending NTSC application for the NTSC Channel 21 facility at Beaumont because it is short-spaced to a co-channel DTV allotment at Beaumont, Texas. As stated above, Beaumont 21's application for the NTSC Channel 21 facility at Beaumont was filed months before the September 20, 1996, filing deadline. The Commission's failure to protect Beaumont 21's pending NTSC application is inconsistent with the statements the Commission made in its *Sixth Further Notice* and *Sixth Report*

(1996) ("*Sixth Further Notice*"). Specifically, the Commission stated that it would not accept additional applications for NTSC stations that were filed after 30 days from the publication of the *Sixth Further Notice* in the Federal Register. A summary of the *Sixth Further Notice* was published in the Federal Register on August 21, 1996. *See* 61 Fed.Reg. 43209 (1996).

² *Report and Order*, ¶104; *Sixth Further Notice*, ¶60.

and Order, and the Commission neglected to provide any explanation for its failure to consider Beaumont 21's pending application in establishing the DTV Table. Therefore, for this reason alone, the DTV Table contained in the *MO&O* should be revised to accommodate the existing NTSC allotment of Channel 21 at Beaumont, Texas, and Beaumont 21's pending application for that facility.

III. The Commission Should Substitute DTV Channel 45 for the DTV Channel 21 Allotment at Beaumont, Texas, or, Alternatively, Beaumont 21 Should be Permitted to Amend Its Pending NTSC Application to Specify an Available Alternative Channel.

As stated above, the NTSC allotment of Channel 21 at Beaumont, Texas is short-spaced to a co-channel DTV allotment for Beaumont, Texas. Assuming, *arguendo*, the Commission should determine that its failure to consider Beaumont 21's pending NTSC application for the Channel 21 facility at Beaumont does not constitute a sufficient basis, in itself, for granting reconsideration of the allotment of DTV Channel 21 to Beaumont, the Commission has stated throughout this proceeding that it intends to give broadcasters the flexibility to develop alternative allotment plans where they do not result in additional interference to other stations and/or allotments. In order to accommodate Beaumont 21's pending application for the NTSC Channel 21 facility at Beaumont, Beaumont 21 respectfully requests that the Commission change the Channel 21 DTV allotment for Beaumont to Channel 45. As demonstrated in the attached engineering materials, the substitution of DTV Channel 45 for Channel 21 at Beaumont would result in a comparable replication match (94.6%), and would cause only negligible interference (less than 0.06%) to any other stations (NTSC or DTV).

The proposed substitution of DTV Channel 45 for Channel 21 at Beaumont, would effectuate the Commission's pronouncements in its *Sixth Further Notice* and *Sixth Report and Order* that it would protect those pending NTSC applications that were on file as of September 20, 1996.

IV. The Proposals Set Forth Herein Would Provide Substantial Public Interest Benefits.

The proposed substitution of DTV Channel 45 for Channel 21 at Beaumont would serve the public interest by promoting the emergence and development of new networks.³ As far back as 1941, when the Commission adopted its Chain Broadcasting Rules,⁴ a primary goal of the Commission was to remove barriers that would inhibit the development of new networks. The Commission explained that the Chain Broadcasting Rules were intended to "foster and strengthen broadcasting by opening up the field to competition. An open door to networks will stimulate the old and encourage the new." *Report on Chain Broadcasting* at 88.

The successful emergence of new networks, however, depends in large part upon their ability to attract and retain local affiliates, which is the life blood of any national network. Moreover, for

³ Beaumont 21's application for the Beaumont facility was filed in tandem with a series of other applications which, together, cover many of the top 100 markets in which there are no full power television stations to primarily affiliate with The WB Television Network ("The WB"), with whom these respective applicants have existing affiliations. Although there is no commitment on the part of either the applicants or The WB to enter into an affiliation agreement, The WB has indicated a willingness to enter into an affiliation agreement with these applicants in the event they are successful in acquiring a station in their respective communities. It should be made clear, however, that the public interest benefit of promoting an emerging network will be achieved regardless of which applicant ultimately acquires the construction permit. The important element is that the NTSC allotment be preserved and that the station become operational and available for affiliation. By the same token, the public interest benefit of promoting emerging networks is served regardless of whether it is The WB or some other new network that gains a primary affiliate in a top 100 market.

⁴ See *Report on Chain Broadcasting*, Commission Order No. 37, Docket 4860 (May 1941) at 88 ("Report on Chain Broadcasting"); *Amendment of Part 73 of the Commission's Rules and Regulations with Respect to Competition and Responsibility in Network Television Broadcasting*, 25 FCC 2d 318, 333 (1970); *Fox Broadcasting Co. Request for Temporary Waiver of Certain Provisions of 47 C.F.R. §73.658*, 5 FCC Rcd 3211, 3211 n.9 (1990), (citing, Network Inquiry Special Staff, *New Television Networks: Entry, Jurisdiction, Ownership, and Regulation* (Vol. 1 Oct. 1980)), waiver extended, 6 FCC Rcd 2622 (1991).

emerging networks, it is critical that they be afforded the opportunity to compete for affiliates as quickly as possible. Indeed, the large financial losses that confront any national network in its initial years of operation can be stemmed only by obtaining additional affiliates to carry the emerging network's programming. In many markets, however, there simply are not enough stations to provide affiliates for emerging networks in addition to those of the more established networks. Thus, the Commission should make the requested change in the DTV Table which, by permitting an additional broadcast station to serve the Beaumont television market, will help promote emerging networks.

Although the Commission has noted that it is not its function to assure competitive equality in any given market, it has acknowledged its "duty at least to take such actions as will create greater opportunities for more effective competition among the networks in major markets."⁵ The history of the Commission's financial interest and syndication ("finsyn") rules provides a good illustration of how the Commission has remained steadfast in its commitment to the goal of nurturing new networks. In 1970, when the Commission first adopted the finsyn rule, it noted that "[e]ncouragement of the development of additional networks to supplement or compete with existing networks is a desirable object and has long been the policy of this Commission." *Competition and Responsibility in Network Television Broadcasting*, 25 FCC 2d at 333. More than two decades later, when the Commission first relaxed and later eliminated the finsyn rule, it did so at the behest of the

⁵ See, e.g., *Television Broadcasters, Inc.*, 4 RR 2d 119, 132 (1965) (Commission granted a short-spacing waiver to an ABC affiliate based largely upon its finding that the station had inferior facilities compared to those available to other national networks in the market, which resulted in a "serious competitive imbalance"), *recon. granted in part on other grounds*, 5 RR 2d 155 (1965); *New Orleans Television Corp.*, 32 RR 1113 (1962) (short-spacing waiver granted for the purpose of assuring the existence of a third truly competitive station in the market, thereby making available competitive facilities to the networks).

then-newest network entrant, Fox.⁶ The FCC's goal of fostering new networks also is reflected in the Commission's relaxation of its multiple ownership rules. *See Amendment of Section 73.3555 of the Commission's Rules Relating to Multiple Ownership of AM, FM, and Television Broadcast Stations*, 100 FCC 2d 17, 48 (1984) (relaxing restrictions on multiple ownership advances the Commission's diversity goal by providing alternatives to the three television networks).

The Commission also has crafted other rules and granted a variety of waivers designed to foster the development of new networks over the years. In 1967, for example, the Commission granted a waiver of the dual network rule to ABC, the then-new network entrant, in connection with ABC's four new specialized radio networks. Although operation of the four networks violated the dual network rule, the Commission nevertheless concluded that waiver of the rule was appropriate because ABC's proposal "merits encouragement as a new and imaginative approach to networking." *Proposal of American Broadcasting Cos., Inc. to Establish Four New Specialized "American Radio Networks,"* 11 FCC 2d 163, 168 (1967). The Commission explained that it was "of more than usual importance to encourage to the extent possible innovation and experimentation in the operation of networks." *Id.* at 165.

⁶ Pending its review of the finsyn rule, the Commission granted Fox's request for a limited waiver of the rule. *Fox Broadcasting Co.*, 5 FCC Rcd at 3211 (1990). As Commissioner Duggan explained, "Fox has been a bright and innovative force. The existence of a fourth network is certainly in the public interest. . . . Fox deserves to be encouraged." *Broadcasting & Cable*, May 7, 1990, ed., p. 28; accord, *Application of Fox Television Stations, Inc. for Renewal of License of Station WNYW-TV, New York, New York*, 10 FCC Rcd 8482, 8528-29 (1995) (Commissioner Quello stating in his concurring statement, "I believe . . . that the creation of the fourth network was a compelling public interest goal."). Similarly, in deciding to phase out the finsyn rule entirely in 1995, the Commission evaluated the rule's impact on "[t]he overall business practices of emerging networks, such as Fox, in the network television and syndication business . . . [and t]he growth of additional networks, including the development of Fox and its position vis-à-vis the three major networks." *Evaluation of Syndication and Financial Interest Rules*, 10

As these examples illustrate, the Commission has remained steadfast in its commitment to the goal of encouraging new networks. Indeed, the Commission has consistently concluded for more than fifty years that the development of new networks -- with the accompanying diversity of viewpoint that they bring -- serves the public interest. In order for emerging networks to survive, however, it is imperative that they be afforded the opportunity to compete for additional local affiliates. The requested change in the DTV Table of Allotments will help facilitate the Commission's longstanding interest in promoting the emergence of new networks by providing an additional broadcast station with which to affiliate in the Beaumont market.

WHEREFORE, in light of the foregoing, Beaumont 21 L.L.C., respectfully requests that the Commission GRANT reconsideration of its *MO&O* by substituting DTV Channel 45 for Channel 21 at Beaumont, Texas.

Respectfully submitted,

BEAUMONT 21 L.L.C.

By: 

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April 20, 1998

Engineering Statement
Beaumont, TX Channel 21
Wes, Inc. Broadcast Consultants

The program used to demonstrate interference and service replication percentages in this study was the OET FLR program, OET Bulletin 69, running on our own Sun Microsystems computers. These computers have been verified to give identical results to the runs generated by OET. The spacing programs are our own proprietary programs utilizing the FCC broadcast database and DTV database.

Due to a digital channel Channel 21 being assigned to Beaumont, TX 2.8km away, a study was conducted to propose moving the digital channel 21 to channel 45. The study showed that it would receive a 94.6% match but a population loss of only 1,896 persons. It would cause negligible interference to any digital or NTSC stations (less than 0.06%).

Should the Commission prefer moving the proposed NTSC channel 21 in Beaumont, TX, the TV channel spacing study shows channel 16 open to such a change. The OET FLR studies show no interference to any NTSC and (less than 0.01%) to any DTV stations. Also, the attached list of digital channels within 300 km shows no conflict on channel 16 with any digital channels.


Pete E Myrl Warren, III 4/18/98
Date
Whose qualifications are a matter of
record with the Commission

Study Title: Beaumont, TX, DTV 21 moved to 45
Beaumont, TX Channel 45

DTV Study Station, Transmitter Coordinates: 30-8-24 N 93-58-44 W

Study distance: 300 km

DTV TO DTV STUDY RESULTS

| City of License | ST | Chan | Distance | Bearing | Req.Dist | Diff. |
|-----------------|----|------|----------|---------|----------|--------|
| Baton Rouge | LA | 45 | 260.94 | 85.46 | 223.70 | 37.24 |
| Baton Rouge | LA | 46 | 267.37 | 84.62 | 88.50 | 178.87 |
| Shreveport | LA | 44 | 280.17 | 0.88 | 88.50 | 191.67 |
| Houston | TX | 44 | 160.67 | 246.28 | 88.50 | 72.17 |
| Rosenberg | TX | 46 | 160.67 | 246.28 | 88.50 | 72.17 |

Station is in the clear!

***** DTV to NTSC TV CHANNEL SPACING STUDY *****

Job title: Beaumont, TX DTV 45
 Channel: 45
 Database file name: tv980408.edx

Latitude: 30 8 24
 Longitude: 93 58 44

| CH | Call | Record No. | City | ST | Z | STS | Bear. | Dist. | Reqd. Dist. | Result |
|-----|--------|------------|------------|----|---|-----|-------|-------|-------------|--------|
| 45+ | KSHV | 5103 | SHREVEPORT | LA | 2 | L | 1.9 | 277.1 | 244.6 | 32.5 |
| 45+ | KSHV | 5104 | SHREVEPORT | LA | 2 | C | .9 | 280.2 | 244.6 | 35.6 |
| 45o | KXLNTV | 5595 | ROSENBERG | TX | 3 | L | 246.6 | 160.7 | 244.6 | -83.9 |
| 45o | KXLNTV | 5596 | ROSENBERG | TX | 3 | A | 246.6 | 160.7 | 244.6 | -83.9 |

***** End of channel 45 study *****

Study with Beaumont DTV 21 as it is presently

Run begins Sun Apr 19 11:12:50 1998, host gilwell

Analysis of: 6N TX BEAUMONT

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 704455 | 33285.1 |
| not affected by terrain losses | 703695 | 33100.3 |
| lost to NTSC IX | 63684 | 4714.3 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to all IX | 63684 | 4714.3 |

Analysis of: 21A TX BEAUMONT

HAAT 293.0 m, ATV ERP 1000.0 kW, Cap Adj 1.8 dB

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 704455 | 33285.1 |
| not affected by terrain losses | 704249 | 33184.7 |
| lost to NTSC IX | 395 | 104.5 |
| lost to additional IX by ATV | 1822 | 233.1 |
| lost to ATV IX only | 1822 | 237.1 |
| lost to all IX | 2217 | 337.6 |
| percent match ATV/NTSC | 100.0 | 100.0 |

Analysis of: 45N TX ROSENBERG

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 3655954 | 19436.5 |
| not affected by terrain losses | 3655954 | 19436.5 |
| lost to NTSC IX | 1328 | 56.6 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to all IX | 1328 | 56.6 |

Analysis of: 46A TX ROSENBERG

HAAT 439.0 m, ATV ERP 65.7 kW, direction 350.0 degrees T, F/B = 12.6 dB

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 3655954 | 19436.5 |
| not affected by terrain losses | 3655954 | 19436.5 |
| lost to NTSC IX | 0 | 0.0 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to ATV IX only | 0 | 0.0 |
| lost to all IX | 0 | 0.0 |
| percent match ATV/NTSC | 100.0 | 100.0 |

Analysis of: 45N LA SHREVEPORT

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 619186 | 20213.9 |
| not affected by terrain losses | 617108 | 20089.4 |
| lost to NTSC IX | 0 | 0.0 |
| lost to additional IX by ATV | 4233 | 116.5 |
| lost to all IX | 4233 | 116.5 |

Analysis of: 44A LA SHREVEPORT

HAAT 507.0 m, ATV ERP 100.3 kW, direction 150.0 degrees T, F/B = 16.1 dB

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 619186 | 20213.9 |
| not affected by terrain losses | 618320 | 20169.7 |
| lost to NTSC IX | 269 | 20.1 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to ATV IX only | 0 | 0.0 |
| lost to all IX | 269 | 20.1 |
| percent match ATV/NTSC | 100.0 | 100.0 |

Analysis of: 44N LA BATON ROUGE

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 985001 | 19388.9 |
| not affected by terrain losses | 984987 | 19372.9 |
| lost to NTSC IX | 0 | 0.0 |

| | | |
|------------------------------|-----|------|
| lost to additional IX by ATV | 152 | 20.0 |
| lost to all IX | 152 | 20.0 |

Analysis of: 45A LA BATON ROUGE
 HAAT 426.0 m, ATV ERP 143.3 kW, direction 60.0 degrees T, F/B =
 17.7 dB

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 985001 | 19388.9 |
| not affected by terrain losses | 984995 | 19376.9 |
| lost to NTSC IX | 0 | 0.0 |
| lost to additional IX by ATV | 108054 | 3279.6 |
| lost to ATV IX only | 108054 | 3279.6 |
| lost to all IX | 108054 | 3279.6 |
| percent match ATV/NTSC | 89.0 | 83.1 |

Finished Sun Apr 19 11:44:52; run time 0:29:21
 132417 calls to Longley-Rice; path distance increment 1.00 km

Beaumont, TX, DTV 21 moved to Channel 45

Run begins Sun Apr 19 12:30:48 1998, host gilwell

Analysis of: 6N TX BEAUMONT

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 704455 | 33285.1 |
| not affected by terrain losses | 703695 | 33100.3 |
| lost to NTSC IX | 63684 | 4714.3 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to all IX | 63684 | 4714.3 |

Pop 640,011

Analysis of: 45A TX BEAUMONT

HAAT 293.0 m, ATV ERP 1000.0 kW, Cap Adj 3.9 dB

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 704455 | 33285.1 |
| not affected by terrain losses | 704088 | 33140.5 |
| lost to NTSC IX | 65973 | 3673.3 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to ATV IX only | 2711 | 56.3 |
| lost to all IX | 65973 | 3673.3 |
| percent match ATV/NTSC | 94.6 | 91.7 |

Pop 639,005 Inc 1896
Pop

Analysis of: 45N TX ROSENBERG

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 3655954 | 19436.5 |
| not affected by terrain losses | 3655954 | 19436.5 |
| lost to NTSC IX | 1328 | 56.6 |
| lost to additional IX by ATV | 19731 | 1224.1 |
| lost to all IX | 21059 | 1280.7 |

- 0.06%

Analysis of: 46A TX ROSENBERG

HAAT 439.0 m, ATV ERP 65.7 kW, direction 350.0 degrees T, F/B = 12.6 dB

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 3655954 | 19436.5 |
| not affected by terrain losses | 3655954 | 19436.5 |
| lost to NTSC IX | 0 | 0.0 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to ATV IX only | 0 | 0.0 |
| lost to all IX | 0 | 0.0 |
| percent match ATV/NTSC | 100.0 | 100.0 |

Analysis of: 45N LA SHREVEPORT

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 619186 | 20213.9 |
| not affected by terrain losses | 617108 | 20089.4 |
| lost to NTSC IX | 0 | 0.0 |
| lost to additional IX by ATV | 7112 | 433.8 |
| lost to all IX | 7112 | 433.8 |

Analysis of: 44A LA SHREVEPORT

HAAT 507.0 m, ATV ERP 100.3 kW, direction 150.0 degrees T, F/B = 16.1 dB

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 619186 | 20213.9 |
| not affected by terrain losses | 618320 | 20169.7 |
| lost to NTSC IX | 269 | 20.1 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to ATV IX only | 0 | 0.0 |
| lost to all IX | 269 | 20.1 |
| percent match ATV/NTSC | 100.0 | 100.0 |

Analysis of: 44N LA BATON ROUGE

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 985001 | 19388.9 |
| not affected by terrain losses | 984987 | 19372.9 |
| lost to NTSC IX | 0 | 0.0 |

| | | |
|------------------------------|-----|------|
| lost to additional IX by ATV | 152 | 20.0 |
| lost to all IX | 152 | 20.0 |

Analysis of: 45A LA BATON ROUGE
 HAAT 426.0 m, ATV ERP 143.3 kW, direction 60.0 degrees T, F/B =
 17.7 dB

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 985001 | 19388.9 |
| not affected by terrain losses | 984995 | 19376.9 |
| lost to NTSC IX | 0 | 0.0 |
| lost to additional IX by ATV | 108054 | 3279.6 |
| lost to ATV IX only | 108054 | 3279.6 |
| lost to all IX | 108054 | 3279.6 |
| percent match ATV/NTSC | 89.0 | 83.1 |

Finished Sun Apr 19 13:10:55; run time 0:37:17
 152936 calls to Longley-Rice; path distance increment 1.00 km

Study Title: Beaumont ,TX, NTSC 21 moved to 16
Beaumont, TX Channel 16

NTSC Study Station, Transmitter Coordinates: 30-8-6 N 93-57-1 W

Study distance: 300 km

NTSC TO DTV STUDY RESULTS

| City of License | ST | Chan | Distance | Bearing | Req. Dist | Diff. |
|-----------------|----|------|----------|---------|-----------|--------|
| Lafayette | LA | 16 | 168.93 | 81.42 | 244.60 | -75.67 |
| Lafayette | LA | 23 | 152.62 | 93.79 | 96.60 | 56.02 |
| Lake Charles | LA | 20 | 95.78 | 72.16 | 96.60 | -0.82 |
| Lake Charles | LA | 30 | 39.92 | 64.41 | 96.60 | -56.68 |
| Monroe | LA | 19 | 290.45 | 38.13 | 96.60 | 193.85 |
| Shreveport | LA | 17 | 281.59 | 0.33 | 88.50 | 193.09 |
| Galveston | TX | 23 | 155.16 | 233.32 | 96.60 | 58.56 |
| Houston | TX | 19 | 162.95 | 247.65 | 96.60 | 66.35 |
| Houston | TX | 24 | 162.99 | 246.85 | 96.60 | 66.39 |
| Houston | TX | 31 | 162.81 | 247.00 | 96.60 | 66.21 |
| Nacogdoches | TX | 18 | 161.21 | 331.08 | 96.60 | 64.61 |
| Victoria | TX | 15 | 292.49 | 239.65 | 88.50 | 203.99 |

Station is short-spaced to 3 stations.

***** TV CHANNEL SPACING STUDY *****

Job title: Beaumont
 Channel: 16
 Database file name: tv980408.edx

Latitude: 30 8 6
 Longitude: 93 57 1

| CH | Call | Record No. | City | ST | Z | STS | Bear. | Dist. | Reqd. Dist. | Result |
|-----|--------|------------|-----------|----|---|-----|-------|-------|----------------|--------|
| 21o | NEW | 5069 | BEAUMONT | TX | 3 | A | .0 | .0 | 31.4 | -31.4 |
| 23- | ALLOTM | 5070 | DE RIDDER | LA | 3 | | 38.7 | 101.3 | 95.7 | 5.6 |
| 21o | ALLOTM | 5317 | BEAUMONT | TX | 3 | | 250.7 | 15.5 | 31.4 | -15.9 |
| 16+ | ALLOTM | 5333 | LONGVIEW | TX | 2 | | 344.4 | 270.9 | 280.8 | -9.9 |
| 16o | LANDMB | 5581 | HOUSTON | TX | 0 | A | 253.2 | 142.4 | 280.8 | -138.4 |
| 31+ | KHOU-D | 5589 | HOUSTON | TX | 3 | C | 247.3 | 162.8 | 119.9 | 42.9 |

***** End of channel 16 study *****

Study not including Beaumont, TX, NTSC 21 moved to NTSC 16

Run begins Sun Apr 19 11:47:17 1998, host providence

Analysis of: 15N LA LAFAYETTE

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 585965 | 19890.0 |
| not affected by terrain losses | 585965 | 19890.0 |
| lost to NTSC IX | 0 | 0.0 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to all IX | 0 | 0.0 |

Analysis of: 16A LA LAFAYETTE

HAAT 360.0 m, ATV ERP 93.0 kW, direction 140.0 degrees T, F/B = 18.2 dB

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 585965 | 19890.0 |
| not affected by terrain losses | 585965 | 19890.0 |
| lost to NTSC IX | 0 | 0.0 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to ATV IX only | 0 | 0.0 |
| lost to all IX | 0 | 0.0 |
| percent match ATV/NTSC | 100.0 | 100.0 |

Finished Sun Apr 19 11:56:00; run time 0:07:58

32745 calls to Longley-Rice; path distance increment 1.00 km

Study with Beaumont, TX NTSC 21 moved to NTSC 16 with Dielectric
C170 pattern at 300 deg with 5 MW.

Run begins Sun Apr 19 19:11:52 1998, host gilwell
Analysis of: 16N TX BEAUMONT

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 566413 | 23387.6 |
| not affected by terrain losses | 566413 | 23379.6 |
| lost to NTSC IX | 0 | 0.0 |
| lost to additional IX by ATV | 19364 | 96.4 |
| lost to all IX | 19364 | 96.4 |

Analysis of: 69A TX BEAUMONT

HAAT 367.0 m, ATV ERP 634.4 kW, direction 230.0 degrees T, F/B =
18.2 dB

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 566413 | 23387.6 |
| not affected by terrain losses | 566413 | 23379.6 |
| lost to NTSC IX | 0 | 0.0 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to ATV IX only | 0 | 0.0 |
| lost to all IX | 0 | 0.0 |
| percent match ATV/NTSC | 100.0 | 100.0 |

Analysis of: 15N LA LAFAYETTE

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 585965 | 19890.0 |
| not affected by terrain losses | 585965 | 19890.0 |
| lost to NTSC IX | 0 | 0.0 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to all IX | 0 | 0.0 |

Analysis of: 16A LA LAFAYETTE

HAAT 360.0 m, ATV ERP 93.0 kW, direction 140.0 degrees T, F/B =
18.2 dB

| | POPULATION | AREA (sq km) |
|--------------------------------|------------|--------------|
| within Noise Limited Contour | 585965 | 19890.0 |
| not affected by terrain losses | 585965 | 19890.0 |
| lost to NTSC IX | 393 | 20.1 |
| lost to additional IX by ATV | 0 | 0.0 |
| lost to ATV IX only | 0 | 0.0 |
| lost to all IX | 393 | 20.1 |
| percent match ATV/NTSC | 99.9 | 99.9 |

Finished Sun Apr 19 19:26:53; run time 0:13:37

56551 calls to Longley-Rice; path distance increment 1.00 km

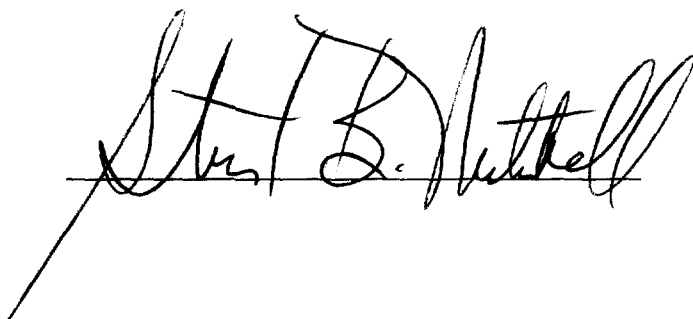
CERTIFICATE OF SERVICE

I, Stuart Mitchell, hereby certify that on this 20th day of April, 1998, copies of the foregoing "Petition for Reconsideration" were hand delivered or mailed first-class, postage pre-paid, to the following:

Roy J. Stewart, Chief*
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 314
Washington, DC 20554

Barbara A. Kreisman, Chief*
Video Services Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 702
Washington, DC 20554

Freedom-TV Sub Inc.
Box 7128
Beaumont, TX 77726-7128

A handwritten signature in black ink, reading "Stuart B. Mitchell", is written over a horizontal line. The signature is cursive and stylized, with a long horizontal stroke extending to the left.

* Hand Delivered